

By: Nichols

S.B. No. 786

A BILL TO BE ENTITLED

1 AN ACT
2 relating to prohibiting the use of eminent domain to take private
3 property for recreational purposes.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 2206.001(c), Government Code, is amended
6 to read as follows:

7 (c) This section does not affect the authority of an entity
8 authorized by law to take private property through the use of
9 eminent domain for:

10 (1) transportation projects, including, but not
11 limited to, railroads, airports, or public roads or highways;

12 (2) entities authorized under Section 59, Article XVI,
13 Texas Constitution, including:

14 (A) port authorities;

15 (B) navigation districts; and

16 (C) any other conservation or reclamation
17 districts that act as ports;

18 (3) water supply, wastewater, flood control, and
19 drainage projects;

20 (4) public buildings and [7] hospitals [~~7 and parks~~];

21 (5) the provision of utility services;

22 (6) a sports and community venue project approved by
23 voters at an election held on or before December 1, 2005, under
24 Chapter 334 or 335, Local Government Code;

1 (7) the operations of:

2 (A) a common carrier pipeline; or

3 (B) an energy transporter, as that term is
4 defined by Section 186.051, Utilities Code;

5 (8) a purpose authorized by Chapter 181, Utilities
6 Code;

7 (9) underground storage operations subject to Chapter
8 91, Natural Resources Code;

9 (10) a waste disposal project; or

10 (11) a library, museum, or related facility and any
11 infrastructure related to the facility.

12 SECTION 2. Subchapter A, Chapter 2206, Government Code, is
13 amended by adding Section 2206.003 to read as follows:

14 Sec. 2206.003. PROHIBITION OF USE OF EMINENT DOMAIN FOR
15 RECREATIONAL PURPOSES. (a) This section applies to the use of
16 eminent domain under the laws of this state, including a local or
17 special law, by any governmental or private entity, including:

18 (1) a state agency, including an institution of higher
19 education as defined by Section 61.003, Education Code;

20 (2) a political subdivision of this state; or

21 (3) a corporation created by a governmental entity to
22 act on behalf of the entity.

23 (b) Notwithstanding any other law and except as provided by
24 Subsection (e), a governmental or private entity may not take
25 private property through the use of eminent domain if the taking is
26 for a recreational purpose.

27 (c) This section does not affect the authority of an entity

1 authorized by law to take private property through the use of
2 eminent domain for a purpose listed in Section 2206.001(c) unless
3 the purpose is considered a recreational purpose under Subsection
4 (d).

5 (d) For the purposes of this section, "recreational
6 purpose" includes:

7 (1) a parks and recreation system, or improvements or
8 additions to a parks and recreation system, including sidewalks, or
9 an area or facility that is part of a parks and recreation system;
10 and

11 (2) a park, greenbelt, or trail.

12 (e) This section does not affect the authority of a
13 governmental entity to condemn:

14 (1) a leasehold estate on property owned by the
15 governmental entity; or

16 (2) property to provide adequate public recreational
17 access to suitable recreational resources as described by Section
18 16.1351, Water Code.

19 (f) The determination by the governmental or private entity
20 proposing to take the property that the taking does not involve an
21 act or circumstance prohibited by Subsection (b) does not create a
22 presumption with respect to whether the taking involves that act or
23 circumstance.

24 SECTION 3. Section 21.103(a), Parks and Wildlife Code, is
25 amended to read as follows:

26 (a) Except as provided in Subsection (b) of this section,
27 the department may acquire park sites, including property already

1 devoted to public use, by purchase [~~, condemnation,~~] or any other
2 manner permitted by law.

3 SECTION 4. Sections 13.305 and 21.103(c), Parks and
4 Wildlife Code, are repealed.

5 SECTION 5. The change in law made by this Act applies only
6 to the taking of private property by eminent domain for which a
7 condemnation petition is filed on or after the effective date of
8 this Act. A taking for which a condemnation petition is filed
9 before the effective date of this Act is governed by the law in
10 effect immediately before that date, and that law is continued in
11 effect for that purpose.

12 SECTION 6. This Act takes effect September 1, 2017.